



File Code: 1950

Date: January 10, 2010

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Dear Interested Party;

Enclosed is a copy of the December 2010 Supplemental Environmental Assessment (EA) for the Smith Creek Vegetation Treatment Project for your review and comment. This supplement incorporates by reference the entire August 2007 EA and November 2008 Supplemental EA. The purpose of the analysis presented in this Supplemental EA is to demonstrate project compliance with the Gallatin Forest Plan's elk hiding cover standard (FP II-18).

In October 2009, an appeal regarding the project was filed to the Ninth Circuit Court of Appeals and the District Court of Montana was moved for interim injunctive relief, which was denied by the District Court. The appellants filed a motion for clarification and in February 2010 the case was heard in the Ninth District Court. After consideration of the records and briefs of both parties, the Ninth Circuit Court reversed the District Court's Order dissolving the permanent injunction and granted a stay on the entire project. On September 15, 2010 an opinion (Case 09-35896) regarding the Project was filed in the Ninth Circuit Court. The opinion affirmed the District Court's grant of summary judgment to the Forest Service in almost all respects; however, it stated that the Forest Service failed to ensure that the project was in compliance with the Gallatin Forest Plan's elk-cover requirements. The Ninth Circuit Court remanded to the Forest Service to remedy this error. The direction applicable to meeting the remand conclusion is one specific to the Gallatin Forest Plan Standard for Wildlife and Fish (page II-18, section 6.a.5) – *"Maintain at least two thirds of the hiding cover associated with key habitat components over time. Subsequent timber sale activity will be allowed after regeneration provides hiding cover."* Elk are designated in the Forest Plan as an indicator species for big game (page II-19) for which two-thirds cover must be maintained.

The Smith Creek Vegetation Treatment Project EA (2007) addresses the direct, indirect, and cumulative effects of treating up to approximately 810 acres of vegetation by thinning forested areas and up to 300 acres of prescribed burning within the Smith Creek wildland-urban interface (WUI). The analysis area is located in the Crazy Mountains along the northwest corner of the Yellowstone Ranger District, approximately 35 miles north of Livingston, Montana. The project area is located in T5N, R9E, Section 1 & T5N, R10E, Sections 4, 6, & 8 and consists of the portions of the Smith Creek WUI (National Forest System Lands) that are in close proximity to residences, other structures, and primary transportation routes. The Park County Community Wildfire Protection Plan (CWPP 2006) identified the Smith Creek area as a "WUI area at risk" from wildfires and a priority for fuels reduction projects.

Comments regarding the Supplemental Smith Creek Vegetation Treatment EA are requested from you and other reviewers. The Forest Service will consider all public comments before making a decision as to whether the previous decision for the project should remain valid, whether a revised decision is more appropriate, or whether there are significant impacts that would require the preparation of an EIS.



In submitting comments, please provide specific facts relevant to this supplement only, along with supporting reasons you believe should be considered by the Responsible Official. Comments may be submitted in writing, orally, or through electronic means. If it is determined that the supplemental elk hiding cover analysis shows no reason to modify the original decision, a revised FONSI would be prepared, a re-affirmation of the original decision would be mailed to commenters, and this decision would not be subject to additional appeals. If it is determined that the decision should be modified, then a new decision would be written and it would be subject to a 45-day appeal period.

In order to retain administrative appeal rights under CFR 215 if the decision is modified, you must provide written, oral, or electronic comments during this 30-day comment period. A legal notice will be published in the Bozeman Daily Chronicle and the comment period will start on the day following publication of the legal notice and ends 30 days following the date of publication. Your comments must be postmarked by the end of the 30-day comment period. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record and will be available for public inspection.

This supplement, along with the original documents, is available for viewing and downloading on the Gallatin NF website at: <http://www.fs.fed.us/r1/gallatin>. For further information contact Barbara Ping by phone at (406) 522-2558, or by mail at the Bozeman Ranger District, 3710 Fallon Street, Suite C; Bozeman, MT 59718, or by email to Barbara Ping at bping@fs.fed.us.

Send written comments to:

Barbara Ping, East Zone Team Leader
Smith Creek Vegetation Project
Bozeman Ranger District
3710 Fallon Street, Suite C; Bozeman, MT 59718
Business hours are Mon- Fri, 0800-1630

Written comments must be postmarked by the Postal Service, e-mailed, faxed, or otherwise submitted by 11:59 p.m. on the 30th calendar day following publication of the legal notice. Hand delivered comments must be time and date imprinted at the correct Responsible Official's office by the close of business on the 30th calendar day following publication of the legal notice

Sincerely,

/S/ RON J. ARCHULETA

RON J. ARCHULETA
District Ranger